58TH CONGRESS, 2d Session. } SENATE. { REPORT No. 1916.

PROTECTION OF THE PRESIDENT OF THE UNITED STATES, ETC.

APRIL 5, 1904.—Ordered to be printed.

Mr. BACON, from the Committee on the Judiciary, submitted the following as the

VIEWS OF THE MINORITY.

[To accompany S. 5093.]

The minority of the Committee on the Judiciary, to whom was referred the bill (S. 5093) for the protection of the President of the United States, and for other purposes, respectfully submit the following report:

The title of this bill is misleading and is calculated, by reason of its avowed and inaccurately stated purpose, to enlist a support to which it is not entitled. A measure which is entitled "A bill for the protection of the President of the United States," naturally enlists the sympathy of all Americans and secures a support which it would not otherwise receive if it were fully known and appreciated that under the term "and for other purposes" the provisions of the bill are extended not only to the heads of the Executive Departments, commonly called Cabinet officers, but also to all foreign ambassadors and ministers to the United States.

Properly stated, the title to this bill would read as follows:

A bill to prescribe the punishment of anyone who shall kill or attempt to kill the President of the United States, or the Vice-President of the United States, or the Secretary of State, or the Secretary of the Treasury, or the Secretary of War, or the Attorney-General, or the Postmaster-General, or the Secretary of the Navy, or the Secretary of the Interior, or the ambassador from Great Britain, or the ambassador from France, or the ambassador from Germany, or the ambassador from Russia, or the ambassador from Austria, or the ambassador from Italy, or the ambassador from Mexico, or the minister from Spain, or the minister from Portugal, or the minister from Denmark, or the minister from Belgium, or the minister from the Netherlands, or the minister from Prussia, or the minister from Switzerland, or the minister from Sweden and Norway, or the minister from Turkey, or the minister from China, or the minister from Japan, or the minister from Venezuela, or the minister from Chile, or the minister from Brazil, or the minister from the Argentine Republic, or the minister from Bolivia, or the minister from Gautemala, or the minister from Korea, or the minister from Siam, or the minister from Peru, or the minister from Uruguay, or the minister from Salvador, or the minister from Nicaragua, or the minister from Costa Rica, or the minister from Colombia, or the minister from Cuba, or the minister from Dominican Republic, or the minister from Haiti, or the minister from

Ecuador, or the minister from Panama, or any other ambassador or minister who may be sent to the United States by any foreign government, prince, potentate, or power; and to prescribe a greater penalty for killing or attempting to kill either of the above officials than is prescribed for the killing or attempted killing of any other officials or citizens or inhabitants of the United States.

This is what the term "other purposes" used in the title of this bill means when it is written out in full.

The purpose is to set apart these four dozen men as a superior and distinct class under the law of the land, entitled to a higher degree of protection than other officials, citizens, and inhabitants of the United States, and to make an offense against the person of either one of them a higher and greater offense, punishable with a severer penalty, than if the same offense were committed against the person of any other official, citizen, or inhabitant of the United States. The enactment of a law prescribing a punishment for one who shall kill an official can only be considered as an act for the prevention of the killing of that official in so far as the knowledge of the penalty to be inflicted will act as a deterrent upon one who may contemplate the commission of the crime. Nor does the knowledge by the assassin that he is to be tried and executed by a Federal court act as any greater deterrent to him than the knowledge that he is to be tried and executed by a State court. The execution of an assassin is a proper punishment for the crime of assassination, but it does not restore the life of the person assassinated.

The undersigned minority members of the committee yield to none in their desire to protect the President from assassination, and they, to the utmost, detest and abhor the crime, and the enemies of government and of social order by whom it is committed. We wish that none of the venomous brood may at any time escape and go unwhipped of justice. If in no other way we may be rid of them, we would be glad of their extermination as a nest of serpents. But in the accomplishment of this laudable desire we are unwilling to put upon the statute book a law which will invade and destroy the most valued principles of republican institutions; which will take from the States their rightful jurisdiction over crime which they have never surrendered to the General Government; which will overturn the recognized policies and procedure of a hundred years, and which, not content with provisions respecting the President, sets apart some forty-five or fifty other men as a separate class whose persons shall be more sacred in the eye of the law than any others of the 80,000,000 inhabitants of the United States.

In the effort to destroy anarchists and to safeguard against the commission of their detestable crimes we are unwilling to establish in this country classes, one of which shall stand higher than another class before the law.

The danger of the assassination of an official in the United States on account of his official character may be said, generally speaking, to be absolutely limited to anarchists and lunatics. To such persons intending to commit the crime of assassination, the certainty of the death penalty as a consequence therefor, is no appreciable deterrent. Consequently it is true that the law which is the most valuable for the prevention of the commission of the crime of assassination, is the law which takes away the opportunity for assassination and safeguards the intended victim against the fact of assassination. Such a law

making careful provision for such prevention was enacted by the last Congress. The following is in part the history of it:

A bill with the same title as that now under consideration was before both the Senate and the House in the Fifty-seventh Congress. In addition to the provisions of the present bill, the former bill in the Fifty-seventh Congress contained provisions looking to the exclusion of anarchists from the United States, intending thereby to lessen the danger of attempted assassination of officials in the United States. So much of the bill then pending as related to the exclusion of anarchists from the United States was taken from that bill and incorporated as an amendment in the bill to regulate the immigration of aliens into the United States, when the latter bill was pending in the Senate, and the same is now a part of the immigration law which was approved March 3, 1903. Those provisions thus incorporated, which are in the law of the land, are as follows:

SEC. 38. That no person who disbelieves in or who is opposed to all organized government, or who is a member of or affiliated with any organization entertaining and teaching such disbelief in or opposition to all organized government, or who advocates or teaches the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government, because of his or their official character, shall be permitted to enter the United States or any Territory or place subject to the jurisdiction thereof. This section shall be enforced by the Secretary of the Treasury under such rules and regulations as he shall prescribe.

That any person who knowingly aids or assists any such person to enter the United States or any Territory or place subject to the jurisdiction thereof, or who connives or conspires with any person or persons to allow, procure, or permit any such person to enter therein, except pursuant to such rules and regulations made by the Secretary of the Treasury, shall be fined not more than five thousand dollars, or imprisoned for not less than one nor more than five years, or both.

SEC. 39. That no person who disbelieves in or who is opposed to all organized government, or who is a member of or affiliated with any organization entertaining and teaching such disbelief in or opposition to all organized government, or who advocates or teaches the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government, because of his or their official character, or who has violated any of the provisions of this act, shall be naturalized or be made a citizen of the United States. All courts and tribunals and all judges and officers thereof having jurisdiction of naturalization proceedings or duties to perform in regard thereto shall, on the final application for naturalization, make careful inquiry into such matters, and before issuing the final order or certificate of naturalization cause to be entered of record the affidavit of the applicant and of his witnesses so far as applicable, reciting and affirming the truth of every material fact requisite for naturalization. All final orders and certificates of naturalization hereafter made shall show on their face specifically that said affidavits were duly made and recorded, and all orders and certificates that fail to show such facts shall be null and void.

That any person who purposely procures naturalization in violation of the provisions of this section shall be fined not more than five thousand dollars, or shall be imprisoned not less than one nor more than ten years, or both, and the court in which such conviction is had shall thereupon adjudge and declare the order or decree and all certificates admitting such person to citizenship null and void. Jurisdiction is hereby conferred on the courts having jurisdiction of the trial of such offense to make such adjudication.

That any person who knowingly aids, advises, or encourages any such person to apply for or to secure naturalization or to file the preliminary papers declaring an intent to become a citizen of the United States, or who in any naturalization proceeding knowingly procures or gives false testimony as to any material fact, or who knowingly makes an affidavit false as to any material fact required to be proved in such proceeding, shall be fined not more than five thousand dollars, or imprisoned not less than one nor more than ten years, or both.

The immigration bill of 1903, upon which the foregoing was ingrafted as an amendment, contains other provisions of the most radical character for the exclusion and deportation of alien anarchists and like persons. By the enactment of this law Congress has already made the most effectual provision which can be devised to "protect the President of the United States" against danger from the class of people from whom attempts at assassination are to be apprehended and feared.

The law which has thus been enacted in the immigration act of March 3, 1903, is upon the line which has heretofore been always recognized as that which would most effectively guard the President against assassination. The history of the efforts which have been heretofore made by Congress to enact laws for this purpose is told in an interesting article written by the senior Senator from Michigan (Mr. Burrows) and published in the December (1901) number of the North American Review. He narrates in detail the proceedings of Congress relative to a measure in the Fifty-third Congress (1894) looking to the exclusion and deportation of anarchists, etc., and also what was said in the debates relative to what was then deemed sufficient, if enacted, to accomplish the desired purpose in the protection of our officials, quoting, among others, the speech then delivered by the honorable Senator from Massachusetts (Mr. Hoar). The bill passed the Senate and would have passed the House but for the objection of one man at a critical stage.

Of that bill Senator Burrows writes as follows in the magazine article above cited:

> There was a measure introduced in the Fifty-third Congress in 1894, which, had it been enacted into law, would have probably prevented the Buffalo murder. Had it been passed Emma Goldman would have been deported to her birthplace, Russia, long before she had an opportunity to convince the McKinley assassin that the murder of a President is a divine duty. Most would have been sent back to Germany, where the authorities are anxiously waiting to lay hands on him, and the whole horde of foul conspirators and agitators who would tear down the social structure we have so carefully erected would have followed suit.

The provisions already enacted as law in the immigration law of March 3, 1903, accomplish all and more than all that was deemed necessary in the bill which was thus approved as sufficient by the Fifty-third Congress. It is the prevention of the commission of the crime which will protect the President, and it is a vain hope that any law which can be passed inflicting a penalty will, through such penalty, in any material degree deter the anarchist from the crime of assassination. He expects and courts the penalty, and he glories in what he considers his martyrdom. The more spectacular and prominent the law makes his trial and execution, the greater the incentive there is to him to commit the crime.

Mr. Justice Miller, in delivering the opinion of the court, In re Neagle (135 U. S.), uses the following language:

> The law, which is intended to prevent crime, in its general spread among the community, by regulations, police organizations, and otherwise, which are adapted for the protection of the lives and property of citizens, for the dispersion of mobs, for the arrest of thieves and assassins, for the watch which is kept over the community, as well as over this class of people, is more efficient than punishment of crimes after they have been committed.

There is no provision of law which can be made which will, in any penalty prescribed, protect the President from attempts at his assassination by lunatics. Protection from lunatics can only be had by

physically guarding the President so that they can not have the opportunity to approach him, and the same thing is true of the anarchist assassin in almost, if not quite, the same degree. Those who now oppose the passage of the pending bill were foremost in their efforts to secure the enactment of the foregoing provision of law by having the same placed as an amendment upon the immigration bill when pending in the Senate. Their opposition, therefore, to the passage of the pending bill can not be charged to indisposition or indifference to the passage of any law which, while committing no violence to the institutions of free government and to our Constitutional restrictions, will add greater security to the protection of the President against the danger of assassination.

So far as concerns the case of the assassination of the President in the District of Columbia or in any Territory of the United States, where there is exclusive Federal jurisdiction, the law now existing is ample to secure in and through the Federal courts, the trial, conviction, and execution of the assassin.

In case the President should be assassinated in a State, the laws of such State are ample to secure in and through its courts the trial, conviction, and execution of the assassin, and there the power and responsibility for the punishment of such a crime should rest and remain, as is designed and intended by the Constitution of the United States. The only exception to this general statement is found in the fact that in three or four States capital punishment has been abolished. Nor is there reason for suggestion that the punishment of an assassin of the President of the United States would be less certain and prompt if left to the courts of the State in which the crime was committed, than if jurisdiction for the punishment of said crime were devolved upon the Federal court. There is not a State where it would be possible for one who had assassinated the President to escape the punishment prescribed by law. The world is not large enough for one who commits such a crime to be out of reach of the arm of the law, and there is not a place secret enough in which he could hide himself from avenging justice. If there had ever been a case of the assassination of a President in which the assassin had escaped, there would be ground upon which to rest the claim for some legislation which would prevent the escape of anyone in the future, but there has been no such experience, and there can be none such. There is not a nook or corner in the United States in which an assassin of the President of the United States would not suffer the infliction of the utmost penalty of the law.

It is not sufficient to say that because there are three or four States in the Union in which the death penalty has been abolished a Federal law should be passed, taking away the criminal jurisdiction from the other forty States and devolving it in each of those States upon the Federal courts, and this, not only as to the President, but as to forty-five or fifty others.

Aside from the policy of the proposed law, and its violation (through its discriminations in favor of four dozen men in the United States) of the fundamental principle of the equality of all men before the law, and especially before the criminal law, the jurisdiction conferred upon the Federal courts in the first section of this bill is in violation of the Constitution of the United States.

It should be conceded by all without argument that so far as the mere crime of assassination is concerned, if committed within the bor-

ders of a State, the Federal Government has no jurisdiction or power to inflict a penalty upon the perpetrator of the crime, even if the person assassinated be an official of the United States Government, unless the assumption or claim of such jurisdiction is based upon the fact that the assassination was directed against one on account of his official position or character, or on account of his official acts. The mere fact that the person assassinated is an official of the Government will not give jurisdiction to any court of the United States to punish the perpetrator of the crime. It can only have such jurisdiction where the assassination or attempted assassination was on account of the official position or character of the officer or on account of acts done or omitted by such officer.

As a general proposition the jurisdiction for the punishment of a crime committed within the territory of a State is under State laws and in State courts to the exclusion of Federal law and of Federal courts; and where jurisdiction is claimed for Federal law and Federal courts to punish a crime committed within the territory of a State, such jurisdiction must be based upon particular grants of power in the Constitution conferring criminal jurisdiction upon the General Government. There is no unlimited power in Congress to legislate as to crimes. There are only four clauses in the Constitution conferring such power upon Congress.

The most important is that which relates to the definition and punishment of the crime of treason. Then the only other two clauses in the Constitution which specifically provide for the enactment of criminal laws are these:

> To provide for the punishment of counterfeiting the securities and current coin of the United States,

and—

> to define and punish piracies and felonies committed on the high seas and offenses against the law of nations.

The only other clause in the Constitution under which there can be based this authority for the enactment of criminal laws, is the general clause which authorizes and requires Congress to make all laws which are necessary for carrying into execution the powers vested by the Constitution in the Government or in any department thereof. Under this last provision of the Constitution it would seem to be too clear to require argument that a Federal statute which prescribes a penalty for an assault upon or personal injury to a Federal official must be limited to cases where such official is thus assaulted or injured on account of his official position while in the discharge of his official duties, or on account of official acts committed or omitted by him. There is no possible warrant in the Constitution for the enactment of a Federal law which would make it a crime against the United States Government to assault or injure a Federal official where such assault or injury was on account of a private grievance, having no connection with or relation to the official character of the person assaulted, or to any official act committed or omitted by him and while he was not in the actual discharge of his official duties.

Many cases are to be found in the decisions of the Supreme Court of the United States in which there is discussed the question of the jurisdiction of Federal courts over criminal offenses committed within the limits of a State. Having no reference now to cases where jurisdiction rested upon specific grants of criminal jurisdiction under the

Constitution, such as those relating to counterfeiting, piracy, etc., it may be confidently stated that in every case thus decided the jurisdiction was rested without question upon the fundamental fact that the assault or the killing was on account of the official position, or the official acts committed or omitted, or while the Federal official was in the actual discharge of his official duties. In no case was there a question raised of the necessity for the presence of such fundamental and essential fact in order to give jurisdiction to the Federal courts of a crime committed within the limits of a State.

The case of Tennessee *v.* Davis (100 U. S., p. 257), and the case In re Neagle (135 U. S., p. 1), may be cited as leading cases in which there is a general discussion of the jurisdictional powers of Congress and of the Federal courts over crimes committed within the limits of a State. In each of these cases there is a learned dissenting opinion, but in each of them both the opinions of the court and the dissenting opinions concur in the full recognition of the necessity of this fundamental and essential fact in order to give jurisdiction to the Federal courts. In these two cases will be found a general citation and review of nearly, if not entirely all, of the former decisions of the Supreme Court in cases involving this question of Federal jurisdiction in crimes committed within a State, and it may be safely stated that in all of these cases there is the same unquestioned recognition of this essential fact in order to confer jurisdiction.

Accepting, then, this as the correct rule for the determination of the jurisdictional limitation of Congress in the enactment of a criminal law which shall be of force within the limits of a State, it must follow that the first section of the pending bill is unconstitutional, for the reason that it undertakes to make the killing of the President an offense against the United States without regard to its having been committed on account of his official character or position, or on account of any official act committed or omitted, or while he was in the discharge of his official duties.

A high official is still human, influenced by like passions with other men and subject to like impulses and frailties, and it is not impossible that he may, in his private capacity, be brought into antagonism and collision with one influenced in no degree by the fact of his official position or any matter connected therewith. The remoteness of such a probability is no reason why an unconstitutional law should be enacted by Congress.

If this section should be so amended as to bring it within constitutional limits all practical difficulty in the administration of the law would be guarded against by providing that in every case where the President is assaulted or killed the presumption would be that such killing or assault was on account of his official position or character, or on account of his official acts committed or omitted, and while in the actual discharge of his official duties.

Under the jurisdictional limitations above set out conferring general powers to legislate, section 3 of the pending bill must necessarily be unconstitutional. That section gives jurisdiction to the Federal courts for the trial and punishment of anyone who shall, within the limits of such State, kill or feloniously assault an ambassador or minister of a foreign State or country accredited to the United States.

The foreign ambassador or minister is not an officer of the United States and exercises no power under the Government of the United

States or any department thereof. There can consequently be no jurisdiction given by the general clause of the Constitution above referred to over any crime committed against the person of an ambassador or minister within the limits of a State.

GENERAL IMPOLICY OF THE BILL.

Relative to the general impolicy of this bill much can be said. It was not the design of the framers of the Constitution, or of either of the several States in the adoption of the same, to make an assault upon or injury to a Federal official, of any rank or degree, a graver offense than the same assault upon or injury to a private citizen. Equality before the law was the fundamental principle upon which this Government was based, and it should ever so remain. The framers of the Constitution were fresh from the domination of a government where such equality was not recognized, and where an injury or an attempted injury to the highest officer of that government constituted a crime punishable by a higher penalty than that by which the same crime was punished if committed against one of lower station in life.

It was not an accident that the framers of the Constitution omitted to provide for such distinction before the law; and with their attention specifically called to the question, as is shown by the debates in the Constitutional Convention, they distinctly refused to make any provision, or to countenance any provision, under which a graver penalty would be inflicted for a personal injury upon an official than if inflicted upon a private individual. This bill does not simply give jurisdiction to the Federal courts over offenses committed against the officials named, but it provides a severer penalty for the same offense when committed against the person of one of the officials named than if committed against any other citizen or inhabitant of the United States. The death penalty for assassination will be no greater under this proposed law than it now would be under State laws, except in the three or four States where the death penalty has been abolished. Death is the extreme penalty which can be inflicted upon an offender, and where that penalty is now provided for under State laws, no higher penalty can be provided for in this proposed Federal law.

There is, however, no State law which inflicts the death penalty for an assault which does not result in death. This pending bill, however, provides the death penalty in case of a felonious assault by anyone upon either of the four dozen persons who will be by this law set apart as a class in the eye of the law superior to, and above all other citizens or inhabitants of the United States. That such a law making such a discrimination should be enacted by this Government is an indignity and should be an offense to every freeborn American citizen. Equality before the law is the foundation stone on which rests our entire political fabric, and this proposed law, if enacted, will destroy that equality. It is unbearable that any man who appreciates and prizes this political birthright of equality before the law, should suffer the humiliation of having to look any other man in the face and recognize the fact that the law regards the life of that other man as more entitled to its care and protection than is his own.

The life of the humblest citizen in this land is as dear to him and to his family and to his fellows as is the life of the highest official to himself, or to his family, or to those who wait upon his favors. The

humblest citizen in this land is entitled to all the protection which the law can give to his life, and when it gives to him this all, it can give no more to any other man. If it can give more to the highest in the land than it gives to the humble citizen, it is failing in its duty to that humble citizen. There should not be one law for one man, even though he be President of the United States, and another law for another man, even though he be the lowliest citizen of the United States.

There should be in this country no classes before the law. This bill if enacted into law will make such classes. Under it, if the Secretary of the Navy walks down the street and a man assaults him and the jury say it was with felonious intent, that man will be adjudged to death. If the Chief Justice, or the the Speaker of the House, or any private citizen, is assaulted under the same circumstances and the same intent is found by the jury, the assailant is put in the penitentiary for a short term of years. The Secretary of the Interior assaults a private citizen with felonious intent, and under the general law of the State in which the offense is committed he is only liable for imprisonment for a term of years; but reverse the case—the private citizen under the same ciscumstances assaults the Secretary in the same State, and by the provisions of this bill the private citizen must die the death of the scaffold.

The same discrimination is made in favor of every foreign ambassador and minister accredited to the United States from any government, from the greatest on earth to that lowest in dignity and importance. Every such ambassador or minister, of any race or color, will be by this proposed law set apart in this higher class, offenses against whom will be punished with a greater penalty than the same offenses committed against any other officials or citizens of the United States, excepting only the favored few to be included within the favorable discriminations of this law. If a felonious assault is made in any State upon the minister from the most insignificant country on earth the assailant, under this proposed Federal law, must die. If the same assault is made in that State upon the governor of that State, or upon the most eminent private citizen of that State, the assailant will, under the State law, only be punished by imprisonment.

The principle upon which this proposed law is based will logically extend its discriminating provisions to every official of the United States, and to every attaché or other subordinate official attached to the suite of a foreign ambassador or minister to the United States, as well as to every migratory prince or potentate who may visit our shores. The personal dignity of every officer of the United States from the highest to the lowest is one relatively of degree only, and the sanctity of the person of each official of the United States above that of the private citizen, if such is to be recognized, is also one relatively of degree, and the relative importance of their official functions as well, is equally one of degree only. So that if the principle of discrimination in favor of the official, to the disparagement and degradation of the private citizen before the law, is sound in the case of one official, it is equally sound in the case of all; and it only remains a question of public policy in its application whether it shall be limited to a few, or shall be extended to all.

The soundness of this proposition was fully recognized by the distinguished author of the pending bill (Senator Hoar) in the first

measure which he introduced into the Senate with the view to the enactment of a law which proposed to prescribe a greater penalty for the commission of any offense against the person of a Federal official than for the same offense against a private citizen.

On the 4th day of December, 1901, the following bill was introduced into the Senate and on that day read twice and referred to the Committee on the Judiciary:

[S. 3, Fifty-seventh Congress, first session.]

A BILL for the protection of the President of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person who shall within the limits of the United States, or any place subject to the jurisdiction thereof, willfully kill or cause the death of the President of the United States or any officer thereof, or who shall willfully cause the death of the ruler or chief magistrate of any foreign country, shall be punished with death.

SEC. 2. That any person who shall within the limits of the United States, or any place subject to the jurisdiction thereof, make an attempt on the life of the President of the United States or any officer thereof, or who shall make an attempt on the life of the ruler or chief magistrate of any foreign country, shall be punished with death.

SEC. 3. That any person who shall within the limits of the United States, or any place subject to the jurisdiction thereof, advise or counsel the killing of the President of the United States or any officer thereof, or shall conspire to accomplish the same, or who shall advise or counsel the killing of the ruler or chief magistrate of any foreign country, or shall conspire to accomplish the same, shall be punished by imprisonment not exceeding twenty years.

SEC. 4. That any person who has conspired as aforesaid may be indicted and convicted separately, although the other party or parties to the conspiracy are not indicted or convicted.

SEC. 5. That any person who shall willfully and knowingly aid in the escape from punishment of any person guilty of either of the acts mentioned in the foregoing sections shall be deemed an accomplice after the fact, and shall be punished as if a principal, although the other party or parties to said offense shall not be indicted or convicted.

It will be noted that under the provisions of the foregoing bill the penalty of death is prescribed against anyone who shall in any State attempt to kill "any officer" of the United States, of whom there are probably 150,000, and this although no bodily harm may be inflicted in the attempt. At the same time an attempt to kill the governor of the same State, or any citizen thereof, would be punished by imprisonment only. Not only so, but the bill provides the death penalty against anyone who shall "advise" the killing of "any officer" of the United States, or who shall conspire to accomplish the same.

The above bill, it is true, was abandoned and one more limited in its scope was substituted therefor; but the principle was recognized, and it is not to be seriously doubted that if the beginning is now made in its application to a few officials, it is but a question of a short time when it will be extended to others, and again to others, until this policy, destructive of the most cherished principle of free government, will find its complete fruition in the enactment into law of a bill such as that above set out, the provisions of which will extend, as proposed in that bill, *to every officer of the United States*. When such a law is enacted every official in the United States, from the highest to the very lowest, will have been created as a superior and sacred class, entitled to greater consideration and higher protection under the law than all other citizens of the United States.

Under the restraint of government, liberty in its last analysis is equality before the law. In the degree that each man under a gov-

ernment enjoys before the law equality of right, privilege, and immunity and protection, with every other man, in that degree is there the liberty of the citizen; and to the degree that such equality is taken from him, to that degree is the liberty of the citizen denied and abridged.

When a superior power takes away from those powerless to resist, and against their will, this right to equality before the law, it must grieve all the lovers of free institutions; but when those clothed with authority to legislate deliberately set others above themselves, and above those who have clothed them with that authority, this voluntary relative debasement of themselves and of those whom they represent, furnishes a spectacle which must be one of the political wonders and mysteries of the age.

All of which is respectfully submitted.

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